

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

GRACE GONZALEZ GARCIA, et al.,

Plaintiffs,

Civil No. 98-1894 (JAF)

v.

PUERTO RICO POWER AUTHORITY,
et al.,

Defendants.

OPINION AND ORDER

Plaintiffs, Grace González García, her husband, Jorge Bracero Landrón, and their conjugal partnership, filed this suit against Plaintiff González García's former employer, Puerto Rico Power Authority ("PRPA"), and its president, Miguel A. Cordero. Docket Document No. 1. Plaintiffs allege violations of the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12101-213 (1994 & Supp. I 2001), the Age Discrimination in Employment Act of 1967 ("ADEA"), 29 U.S.C. §§ 621-634 (1994 & Supp. I 2001), Puerto Rico Law No. 100, 29 L.P.R.A. §§ 146-151 (1995 & Supp. I 1998), Puerto Rico Law No. 44, 1 L.P.R.A. §§ 501-511 (1999), and 42 U.S.C. § 1983 (1994 & Supp. I 2001). Docket Document No. 1. On March 6, 2000, this court endorsed a voluntary dismissal of Plaintiffs' ADA and ADEA claims against Defendants. Docket Document No. 30. Defendants PRPA and Cordero move

RECEIVED & FILED
01 OCT 12 AM 11:52
CLERK OF COURT
U.S. DISTRICT COURT
SAN JUAN, P.R.

Civil No. 98-1894 (JAF)

-2-

to dismiss Plaintiffs' remaining causes of action. Docket Document
Nos. 7, 23.

I.

Factual and Procedural Synopsis

We derive the following factual summary from Plaintiffs' complaint. Docket Document No. 1

Defendant PRPA is a public corporation and an instrumentality of the commonwealth of Puerto Rico. Miguel A. Cordero is the president of PRPA. Plaintiffs' González García and Bracero Landrón are residents of Puerto Rico. Plaintiff González García is affiliated with the Partido Popular Democrático and Defendant Cordero is associated with the Partido Nuevo Progresista.

In February 1984, Plaintiff González García began working in the Human Resources Department of PRPA. Plaintiff González García worked as a permanent employee of PRPA for approximately thirteen years. For approximately five years, Plaintiff González García was the Supervisor of the Evaluation Department in the Human Resources Department of PRPA.

Plaintiffs allege that when Defendant Cordero was appointed as president of PRPA, he began a campaign to rid the PRPA of employees associated with the Partido Popular Democrático. He replaced these employees with those affiliated with the Partido Nuevo Progresista.

Civil No. 98-1894 (JAF)

-3-

1 According to Plaintiff González García, the political discrimination
2 against her took many forms.

3 On July 18, 1993, Plaintiff González García was transferred to
4 the Office of Health and Occupational Security to work as a secretary.
5 She contends that she was demoted without any explanation, even though
6 her previous position had not been eliminated. Following her
7 transfer, Plaintiff González García filed an official complaint.
8 Plaintiffs allege that Defendant PRPA's administrative grievance
9 system was biased, futile, and violated agency policy and due process.
10 Plaintiffs also assert that no action was taken in response to
11 Plaintiff González García's grievance.
12
13

14 Plaintiffs claim that Defendants PRPA and Cordero continued to
15 transfer Plaintiff González García to various other positions, without
16 notice, explanation or training.

17 Plaintiff alleges that these transfers were in retaliation for
18 her filing a grievance. The purported retaliation caused Plaintiff
19 González García stress, anxiety, and uncertainty as to the security of
20 her job. She claims that she was unable to obtain information
21 regarding her frequent job changes, despite her requests. Plaintiff
22 González García further alleges that she was subject to unreasonable
23 work quotas due to her political affiliation. She also asserts that
24
25
26

Civil No. 98-1894 (JAF)

-4-

1 she and other employees affiliated with the Partido Popular
2 Democrático fell victim to derogatory, harassing remarks.

3 Plaintiff González García took a leave of absence due to an
4 injury on July 24, 1997. Docket Document No. 29. She submitted a
5 letter of resignation on March 24, 1998. Her resignation became
6 effective on March 31, 1998. Id.

8 Plaintiffs González García and Bracero Landrón filed the present
9 action on August 4, 1998. Docket Document No. 1. In the complaint,
10 Plaintiff González García alleged that Defendants discriminated
11 against her based on her disability in violation of the ADA.
12 Plaintiff González García also claimed that Defendants PRPA and
13 Cordero discriminated against her based on her age, in violation of
14 the ADEA. On March 6, 2000, Plaintiffs moved for a voluntary
15 dismissal with regard to these causes of actions. Docket Document
16 No. 30.

17
18 Plaintiffs assert that Defendants PRPA and Cordero discriminated
19 against Plaintiff González García based on her political beliefs and
20 affiliation, in violation of 42 U.S.C. § 1983.

21
22 On May 21, 1999, Defendant Cordero filed a motion to dismiss.
23 Docket Document No. 7. On January 7, 2000, Defendants Cordero and
24 PRPA filed an additional motion to dismiss. Docket Document No. 23
25
26

Civil No. 98-1894 (JAF)

-5-

II.

Analysis

Defendants PRPA and Cordero have filed poorly-drafted motions to dismiss. The movants, Defendants PRPA and Cordero, do not clearly articulate the basis for their motions to dismiss. Docket Document Nos. 7, 23. According to the rules of court, "[a]ll motions shall state with particularity the grounds therefor and shall set forth the relief or order sought. Motions shall be accompanied by a brief which shall contain a concise statement of reasons in support of the motion, and citations of authorities upon which the movant relies." D.P.R. Loc. R. 311.2. Because Defendants do not set forth the basis for the pending motions, we conclude that Defendants Cordero and PRPA are in violation of the local rules. Without further information, we are unable to evaluate Defendants' arguments in light of the appropriate standard for dismissal.

If Defendants PRPA and Cordero are arguing that this court should dismiss Plaintiffs' claims for failure to state a claim upon which relief can be granted, the applicable standard can be found in Rule 12(b)(6) of the Federal Rules of Civil Procedure. See FED. R. CIV. P. 12(b)(6). Under Rule 12(b)(6), a defendant may move to dismiss an action against him based solely on the pleadings for the plaintiff's "failure to state a claim upon which relief can be granted"

Civil No. 98-1894 (JAF)

-6-

1 Id. In assessing a motion to dismiss, "[w]e begin by accepting all
2 well-pleaded facts as true, and we draw all reasonable inferences in
3 favor of the [nonmovant]." Wash. Legal Found. v. Mass Bar Found., 923
4 F.2d 962, 971 (1st Cir. 1993); see also Coyne v. City of Somerville,
5 972 F.2d 440, 442-443 (1st Cir. 1993). We then determine whether the
6 plaintiff has stated a claim under which relief can be granted.
7

8 If Defendants are arguing that this court lacks subject matter
9 jurisdiction, the proper standard is found in Rule 12(b)(1) of the
10 Federal Rules of Civil Procedure. See FED. R. CIV. P. 12(b)(1). In
11 assessing a motion to dismiss for lack of subject matter jurisdiction,
12 a district court "must construe the complaint liberally, treating all
13 well-pleaded facts as true and drawing all reasonable inferences in
14 favor of the plaintiffs." Viqueira v. First Bank, 140 F.3d 12, 16 (1st
15 Cir. 1998) (citing Royal v. Leading Edge Prods., Inc., 833 F.2d 1 (1st
16 Cir. 1987)). Additionally, a court may review any evidence, including
17 submitted affidavits and depositions, to resolve factual disputes
18 bearing upon the existence of jurisdiction. See Land v. Dollar, 330
19 U.S. 731, 734-35 (1947); Aversa v. United States, 99 F.3d 1200, 1210
20 (1st Cir. 1996) (citation omitted).
21
22

23 If, however, Defendants are arguing for summary judgment, the
24 correct standard is laid out in Rule 56 of the Federal Rules of Civil
25 Procedure. See FED. R. CIV. P. 56. A district court should grant a
26

Civil No. 98-1894 (JAF)

-7-

1 motion for summary judgment "if the pleadings, depositions, and
2 answers to the interrogatories, and admissions on file, together with
3 the affidavits, if any, show that there is no genuine issue as to any
4 material fact and the moving party is entitled to a judgement as a
5 matter of law." FED. R. CIV. P. 56(c); see Lipsett v. Univ. of P.R.,
6 864 F.2d 881, 894 (1st Cir. 1988). A factual dispute is "material" if
7 it "might affect the outcome of the suit under the governing law," and
8 "genuine" if the evidence is such that "a reasonable jury could return
9 a verdict for the nonmoving party." Anderson v. Liberty Lobby, Inc.,
10 477 U.S. 242, 248 (1986).
11
12

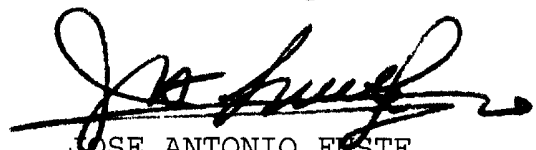
III.

Conclusion

13
14
15 We **DENY** without prejudice both motions to dismiss filed by
16 Defendants PRPA and Cordero. Docket Document No. 7, 23. Movants have
17 **ten (10) days** from the date this Opinion and Order is entered into the
18 record to file a properly drafted, supported motion in accordance with
19 Local Rule 311.2. D.P.R. Loc. R. 311.2. Similarly, any opposition
20 motion must contain properly drafted, well-supported arguments
21 applying the appropriate standard.
22

IT IS SO ORDERED.

San Juan, Puerto Rico, this

11th day of October, 2001.JOSE ANTONIO FESTE
U. S. District Judge